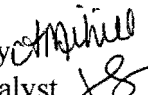



Action

MEMORANDUM

December 6, 2013

TO: County Council

FROM: Amanda Mihill, Legislative Attorney 
Jacob Sesker, Senior Legislative Analyst 

SUBJECT: **Action:** Bill 30-13, Taxation – Property Tax Credit – Burtonsville Enterprise Zone Property

Government Operations and Fiscal Policy Committee recommendation (3-0): enact Bill 30-13 with amendments.
--

Bill 30-13, Taxation – Property Tax Credit – Burtonsville Enterprise Zone Property, sponsored by Councilmember Ervin, Council Vice-President Rice, Councilmembers Berliner, Elrich, and Floreen, Council President Navarro, and Councilmembers Leventhal, Riemer, and Andrews, was introduced on November 5, 2013. A public hearing was held on November 26 at which Delegate Erik Luedtke and Peter Myo Khin, on behalf of the East County Citizens Advisory Board, supported the bill. A Government Operations and Fiscal Policy Committee worksession was held on December 2.

Bill 30-13 would create a property tax credit for certain property located in the Burtonsville Crossroads Neighborhood Plan. Materials from the chief sponsor, Councilmember Ervin begin on ©6. The state law authorizing this tax credit begins on ©7.

Executive comments and recommendations The Executive sent a memorandum expressing support for efforts to revitalize the Burtonsville area and suggested several amendments to Bill 30-13. The Executive noted that there are differences between Bill 30-13 and the state-designated enterprise zones. The Department of Economic Development is working to secure a state-designated Enterprise Zone that would encompass a broader area and the Executive believes that amending Bill 30-13 to correspond to the state enterprise zones would aid the County's effort to market and administer the enterprise zone program.

The Executive's chart on ©20 summarizes the differences between Bill 30-13 and the state-designated enterprise zones. As that chart notes, there are differing credit amounts offered by the Bill and the state zones. The chart below compares the amount and duration of the credits:

	Bill 30-13/ Committee recommendation	State-designated zones/ Executive recommendation
Length of credit	5 years	10 years
Credit amount	80% of the property tax imposed on the assessment for each of the first 5 years	80% for 5 years 70% in year 6 60% in year 7 50% in year 8 40% in year 9 30% in year 10

Committee Discussion/recommendation. The Committee was generally supportive of the Executive's recommended amendments, with the exception of the duration and amount of the credits. As introduced, Bill 30-13 would allow a property tax credit equal to 80% of the property tax imposed in each of the first 5 years. The Executive's recommended amendments would increase this tax credit to mirror the credits for state-designated enterprise zones. Committee members discussed with staff the benefits and drawbacks of mirroring the tax credit as allowed in state-designated enterprise zones as the Executive recommended. Council staff noted that properties within the boundary described by the enabling state law do not meet the requirements for state designation as an enterprise zone. Therefore, Council staff recommended, and the Committee concurred, that a 5-year property tax abatement was appropriate. This distinction between the treatment of qualified enterprise zone properties in Burtonsville and properties in actual enterprise zones reflects a public policy interest in concentrating limited public dollars available for potential tax abatements in geographies that are in the greatest need. After discussion, **the Committee recommended** (3-0) approving the Executive's recommended amendments with the exception of limiting the tax credit provided to 5 years at 80% of the property tax imposed.

This packet contains:	<u>Circle #</u>
Committee Bill 30-13	1
Legislative Request Report	5
Sponsor materials	
Memorandum from Councilmember Ervin	6
State law (HB 675)	7
Fiscal and Policy Note on HB 675	10
Testimony on HB 675 from Councilmember Ervin	14
Testimony from East Co. Citizens Advisory Board	16
Executive transmittal	18

Bill No. 30-13
Concerning: Taxation – Property Tax
Credit – Burtonsville Enterprise Zone
Property
Revised: 12/3/2013 Draft No. 2
Introduced: November 5, 2013
Expires: May 5, 2015
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: _____
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmember Ervin, Council Vice-President Rice, Councilmembers Berliner, Elrich,
and Floreen, Council President Navarro, and Councilmembers Leventhal, Riemer, and Andrews

AN ACT to:

- (1) create a property tax credit for certain property located in the Burtonsville Crossroads Neighborhood Plan; and
- (2) generally amend the law relating to property tax credits.

By adding

Montgomery County Code
Chapter 52, Taxation
Section 52-18T

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

1 **Sec. 1. Section 52-18T is added as follows:**

2 **[[52-18T]] 52-18U. Burtonsville Enterprise Zone Property.**

3 (a) Definitions. In this Section, the following words have the meanings
 4 indicated:

5 Base year means the taxable year immediately before the taxable year in
 6 which a credit under this Section is to be granted.

7 Base year value means the value of the property used to determine the
 8 assessment on which the property tax on real property was imposed for
 9 the base year. Base year value does not include any new real property
 10 that was first assessed in the base year.

11 Eligible assessment means the difference between the base year value
 12 and the actual value as determined by the Department for the applicable
 13 taxable year in which the tax credit under this Section is to be granted.

14 Eligible business entity means a person who operates or conducts a
 15 trade or business on qualified enterprise zone property but does not own
 16 the qualified enterprise zone property.

17 Qualified property means real property that:

18 (1) is located within the area encompassed by the Burtonsville
 19 Crossroads neighborhood Plan developed by the Montgomery
 20 County Planning Department;

21 (2) is zoned for commercial or commercial/residential mixed use
 22 development[[:]] and is used for a commercial purpose; and

23 (3) is improved after the effective date of this Bill and before January
 24 1, 2020.

25 Tax-Property Article means the Tax-Property Article of the Maryland
 26 Code.

(b) Credit.

(1) Credit authorized. The Director of Finance must allow a credit, as authorized by State law, to a taxpayer against all County property tax and ~~[[special area tax]]~~ imposed on~~[[~~:

~~(a)]~~ improvements made by an eligible business entity to qualified property~~[[~~; and

~~(b)~~ personal property owned by an eligible business entity located on qualified property~~]]~~.

(2) Duration of credit. A credit under this Section is available to a qualified property for no more than 5 consecutive years beginning with the taxable year following the calendar year in which the real property initially becomes a qualified property.

(3) Amount of credit. The amount of the credit is equal to 80% of the amount of property tax imposed on the eligible assessment of the qualified property in each of the first 5 taxable years following the calendar year in which the property initially becomes a qualified property.

(4) Nonresidential portions of qualified property. The Department must allocate the eligible assessment to the nonresidential part of the qualified property at the same percentage as the square footages of the nonresidential part is to the total square footage of the building.

(5) For purposes of calculating the amount of the credit allowed under this Section, the amount of property tax imposed on the eligible assessment must be calculated without reduction for any credits allowed under the Tax-Property Article.

(c) Regulations. The County Executive may adopt regulations under Method (2) to administer this Section.

(d) False or fraudulent applications.

(1) A person must not knowingly file a false or fraudulent application to obtain a tax credit under this Section. A violation of this subsection is a Class A violation.

(2) In addition to the penalties provided under paragraph (1), a person who violates this subsection must pay the County any taxes, together with interest and penalties, offset by the credit, any other penalty due, and the County's fees and costs in any action to enforce this subsection.

Approved:

Craig L. Rice, President, County Council

Date

Approved:

Isiah Leggett, County Executive

Date

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council

Date

LEGISLATIVE REQUEST REPORT

Bill 30-13

Taxation – Property Tax Credit – Burtonsville Enterprise Zone Property

DESCRIPTION:	Bill 30-13 would create a property tax credit for certain property located in the Burtonsville Crossroads Neighborhood Plan
PROBLEM:	Changing traffic patterns and the departure of well-known stores resulted in sales reduction for many stores in Burtonsville.
GOALS AND OBJECTIVES:	To provide incentives to invest in and improve properties throughout the Burtonsville area.
COORDINATION:	Finance
FISCAL IMPACT:	To be requested.
ECONOMIC IMPACT:	To be requested.
EVALUATION:	To be requested.
EXPERIENCE ELSEWHERE:	To be researched.
SOURCE OF INFORMATION:	Amanda Mihill, Legislative Attorney 240.777.7815
APPLICATION WITHIN MUNICIPALITIES:	To be researched.
PENALTIES:	N/A

F:\LAW\BILLS\1330 Burtonsville Enterprize Zone\LEGISLATIVE REQUEST REPORT.Doc

6



MONTGOMERY COUNTY COUNCIL
ROCKVILLE, MARYLAND

VALERIE ERVIN
COUNCILMEMBER
DISTRICT 5

Memorandum

To: Councilmembers
From: Valerie Ervin *VE*
Date: October 24, 2013
Re: Burtonsville Enterprise Zone

In December, the Council approved the Burtonsville Crossroads Neighborhood Plan, which establishes the vision we all agree on for this area; however, a sector plan is only one piece of the puzzle. To put all of the pieces together to create Burtonsville's full picture, which includes a main street, public green space, and a village center, we need to encourage private investment. The attached bill would incentivize investment and help improve properties throughout the Burtonsville area, including the Burtonsville Crossing Shopping Center and the strip of commercial space along Old Columbia Pike/Route 198.

As many of you know, the realignment of Route 29, which sent traffic past Burtonsville, capped the area's commercial growth and had a dramatic impact on local businesses. Changed traffic patterns, coupled with the relocation of the Amish Market and the departure of Giant from Burtonsville Crossing, resulted in sales reductions for many in the commercial area. Burtonsville Crossing is nearly empty while Burtonsville Town Square, which opened across the street in 2010, slowly occupies empty commercial space.

This bill creates a tax credit against the personal property tax of any eligible business entity located within the Burtonsville Crossroads Neighborhood Plan, which would provide assistance to small business owners. House Bill 675, which passed during the 2013 Maryland General Assembly Session and became Chapter 134 of the Laws of Maryland, gives the County authority to create this tax credit in Burtonsville.

I believe that this is one example of how we can work together to improve the quality of life for residents in the eastern portion of Montgomery County. I stand ready to work with you in support of this bill. Let me know if you would like to be added as a cosponsor.

6

Chapter 134

(House Bill 675)

AN ACT concerning

Montgomery County – Property Tax Credit for Qualified Enterprise Zone Property – Burtonsville

MC 14-13

FOR the purpose of altering a certain definition of “qualified enterprise zone property” as it relates to a certain property tax credit granted by the governing body of Montgomery County or of a municipal corporation in Montgomery County to include certain property zoned for certain uses located in the area encompassed by the Burtonsville Crossroads Neighborhood Plan; providing for the application of this Act; and generally relating to a property tax credit granted by Montgomery County or a municipal corporation in Montgomery County against county or municipal property tax imposed on an eligible business entity on qualified enterprise zone property.

BY repealing and reenacting, with amendments,

Article – Tax – Property
Section 9-317(f)
Annotated Code of Maryland
(2012 Replacement Volume)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Tax – Property

9-317.

(f) (1) (i) In this subsection the following words have the meanings indicated.

(ii) “Eligible business entity” means a person who operates or conducts a trade or business on qualified enterprise zone property but does not own the qualified enterprise zone property.

(iii) “Qualified enterprise zone property” means real property that:

1. A. is not used for residential purposes;

⑦

[2.] B. is used in a trade or business by an eligible business entity;

[3.] C. is located in an enterprise zone that is designated under Title 5, Subtitle 7 of the Economic Development Article; and

[4.] D. is eligible for the property tax credit under § 9-103 of this title; OR

2. A. IS LOCATED WITHIN THE AREA ENCOMPASSED BY THE BURTONSVILLE CROSSROADS NEIGHBORHOOD PLAN DEVELOPED BY THE MONTGOMERY COUNTY PLANNING DEPARTMENT;

B. IS ZONED FOR COMMERCIAL OR COMMERCIAL/RESIDENTIAL MIXED USE DEVELOPMENT; AND

C. HAS HAD IMPROVEMENTS MADE ON IT ON OR BEFORE JANUARY 1, 2020.

(2) Subject to paragraphs (4) and (5) of this subsection, the governing body of Montgomery County or of a municipal corporation in Montgomery County may grant, by law, a property tax credit against the county or municipal corporation property tax imposed on:

(i) improvements made by an eligible business entity to qualified enterprise zone property; and

(ii) personal property owned by an eligible business entity located on qualified enterprise zone property.

(3) (i) The governing body of Montgomery County or of a municipal corporation in Montgomery County may provide, by law, for:

1. the amount and duration of a credit under this subsection;

2. additional eligibility criteria for a credit under this subsection; and

3. any other provision necessary to carry out a credit under this subsection.

(ii) The governing body of Montgomery County or of a municipal corporation in Montgomery County shall define, by law, the improvements eligible for a credit under this subsection.

(4) The lessor of real property granted a credit under paragraph (2)(i) of this subsection shall reduce the amount of taxes for which an eligible business entity is contractually liable under the lease agreement by the amount of any credit granted under paragraph (2)(i) of this subsection for improvements made by the eligible business entity.

(5) The lessor of real property that receives a credit under § 9-103 of this title may not be granted a credit under this subsection.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2013, and shall be applicable to all taxable years beginning after June 30, 2013.

Approved by the Governor, April 9, 2013.

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

House Bill 675
Ways and Means

(Montgomery County Delegation)

Budget and Taxation

**Montgomery County - Property Tax Credit for Qualified Enterprise Zone
Property - Burtonsville
MC 14-13**

This bill alters the definition of qualified enterprise zone property for purposes of a specified local property tax credit in Montgomery County to include property that (1) is located within the area encompassed by the Burtonsville Crossroads Neighborhood Plan developed by the Montgomery County Planning Department; (2) is zoned for commercial or commercial/residential mixed use development; and (3) has had improvements made on it on or before January 1, 2020.

The bill takes effect June 1, 2013, and applies to taxable years beginning after June 30, 2013.

Fiscal Summary

State Effect: None.

Local Effect: Montgomery County has not enacted a local enterprise zone property tax credit. The county currently provides tax credits to qualifying businesses that locate within an enterprise zone through an existing State tax credit program. Pursuant to this bill, qualifying businesses in the Burtonsville area would be eligible for a local property tax credit depending upon whether the county enacts the local option property tax credit.

Small Business Effect: None.

Analysis

Current Law: Montgomery County or a municipality in the county is authorized to provide a property tax credit for improvements made by an eligible business entity to qualified enterprise zone property; and for personal property owned by an eligible business entity located on qualified enterprise zone property. The jurisdiction may provide for the amount and duration of the tax credit, qualifications for eligibility, and other provisions for the tax credit. In addition, a business entity that receives an enterprise zone property tax credit must provide to a tenant under a lease agreement an amount equivalent to the enterprise zone property tax credit.

An eligible business entity is defined as a person who operates or conducts a trade or business on qualified enterprise zone property but does not own the property. Qualified enterprise zone property is defined as real property that (1) is used in a trade or business by an eligible business entity; (2) is not used for residential purposes; and (3) is located in an enterprise zone and eligible for an enterprise zone property tax credit.

State Tax Credit Program

Businesses located within a Maryland enterprise zone are eligible for local property tax credits and State income tax credits for 10 years after the designation of the enterprise zone. Any business moving in after the designation qualify for the tax credits, if the business meets all applicable eligibility standards, is certified as being in compliance by the appropriate local government, and creates new or additional jobs or makes capital investments. Any business that is already located in an area that is designated an enterprise zone can qualify for the credit for the capital investment and labor force expansion occurring after designation of the enterprise zone.

Real property tax credits are 10-year credits against local real property taxes on a portion of the qualifying real property improvements in the enterprise zone. The State Department of Assessments and Taxation reimburses local governments for one-half of the cost of the property tax credit. The income tax credit is based on wages paid to newly hired employees and can be taken over a one- to three-year period. The credits are based on the wages paid during the taxable year to each qualified employee and vary in value and length of time depending on whether the employee is certified from the Department of Labor, Licensing, and Regulation as being economically disadvantaged and if the business is located in a focus area.

Background: Maryland's enterprise zone program is a joint effort between the State and local governments to provide tax incentives to businesses and property owners located in economically distressed areas. The program was created in 1982 and there are currently 30 enterprise zones in Maryland, of which three (Gaithersburg, Long Branch/Takoma

Park, and Wheaton) are located in Montgomery County. In fiscal 2011, 78 businesses were located within enterprise zones in Montgomery County and these businesses received \$1.6 million in property tax credits from the county as shown in **Exhibit 1**.

Exhibit 1
Enterprise Zone Tax Credit – Montgomery County
Tax Year 2000 – 2011

<u>Tax Year</u>	<u>Credit Amount</u>	<u>Recipients</u>	<u>Credit Amount Per Recipient</u>
2000	\$162,747	13	\$12,519
2001	354,503	44	8,057
2002	428,204	49	8,739
2003	532,275	51	10,437
2004	1,406,975	73	19,274
2005	1,752,704	83	21,117
2006	1,742,777	75	23,237
2007	2,059,801	85	24,233
2008	2,204,755	88	25,054
2009	1,992,053	84	23,715
2010	1,209,611	82	14,751
2011	1,588,492	78	20,365

Local Fiscal Effect: Montgomery County has not enacted the local enterprise zone property tax credit. The county currently provides tax credits to qualifying businesses that locate within an enterprise zone through an existing State tax credit program. Pursuant to this bill, qualifying businesses in the Burtonsville area would be eligible for the local property tax credit assuming that the county enacts such a program. The total cost for the additional property tax credits will depend on the number of businesses qualifying for the local property tax credit and the tax credit amount provided under the local program. As shown in Exhibit 1, the tax credit amount received by qualifying businesses in Montgomery County under an existing enterprise zone State tax credit program has ranged from \$8,000 per recipient to over \$25,000 per recipient.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Montgomery County, Department of Legislative Services

Fiscal Note History: First Reader - February 26, 2013
ncs/hlb

Analysis by: Michael Sanelli

Direct Inquiries to:
(410) 946-5510
(301) 970-5510



MONTGOMERY COUNTY COUNCIL
ROCKVILLE, MARYLAND

VALERIE ERVIN
COUNCILMEMBER
DISTRICT 5

**Testimony of Montgomery County Councilmember Valerie Ervin
Supporting
*MC 14-13, Montgomery County – Property Tax Credit for Qualified
Enterprise Zone Property – Burtonsville*
Montgomery County House Delegation Local Bill Hearing
December 3, 2012**

Chairwoman Kaiser, Vice-Chair Lee and members of the House Delegation, I appreciate the opportunity to testify in support of MC 14-13, Montgomery County – Property Tax Credit for Qualified Enterprise Zone Property – Burtonsville. As the Councilwoman who represents this area, I can assure you that designating Burtonsville as a “qualified enterprise zone” will help this area receive the tax credits it needs to spur revitalization.

As many of you know, the realignment of Route 29, which sent traffic past Burtonsville, capped the area’s commercial growth and had a dramatic impact on local businesses. Changed traffic patterns, coupled with the relocation of the Amish Market and the departure of Giant from Burtonsville Crossing, resulted in sales reductions for many in the commercial area. Burtonsville Crossing is nearly empty while Burtonsville Town Square, which opened across the street in 2010, slowly occupies empty commercial space.

Tomorrow the County Council is scheduled to approve the Burtonsville Crossroads Neighborhood Plan, which establishes the vision we all agree on for this area; however, a sector plan is only one piece of the puzzle. To link all of the pieces together to create Burtonsville’s full picture, which includes a main street, public green space, and a village center, we need to encourage private investment. This bill would incentivize investment and improve properties throughout the Burtonsville area, including the Burtonsville Crossing Shopping Center and the strip of commercial space along Old Columbia Pike/Route 198.

In addition, MC 14-13 creates a tax credit against the personal property tax of any eligible business entity located within the Burtonsville Crossroads Neighborhood Plan,

which would provide assistance to small business owners during this difficult economic time.

I want to especially thank Delegates Luedtke, Kaiser, and Zucker and Senator Montgomery for sponsoring this legislation. I believe that this is a prime example of how state and county officials work together to improve the quality of life for the residents of Montgomery County. I stand ready to work with you in support of this bill. Thank you for considering my testimony.



November 25, 2013

To: County Council President Nancy Navarro
And Council Members

Subject: Bill 30-13, Taxation-Property Tax Credit-Burtonsville Enterprise Zone Property

The East County Citizens Advisory Board (ECCAB) would like to express our strong support for Bill 30-13, Taxation - Property Tax Credit - Burtonsville Enterprise Zone Property, and would also like this opportunity to make a few comments and recommendations.

Last December, I went before the County Council to testify for the approval the Burtonsville Crossroads Neighborhood Plan, which established the vision we all agree on for this area. Many members of ECCAB are pleased with and supportive of the efforts undertaken on Bill 30-13 and that it will provide the initial momentum with an incentive for businesses to invest in locating to the Burtonsville business zone, and/or to enhance or expand their current business in the area. We think this measure is a good step in the right direction, but may not by all means satisfy the level of development potential for the area. There is a need for stronger incentive mechanisms to attract, retain and expand diverse business investments into the targeted area and beyond, including the Burtonsville Crossing Center (BCC). The area is in serious need of 'sticky' incentives that will address the long term competitive economic viability in the area.

We highly recommend a collaboration between the Executive Branch's Department of Economic Development, County Council and our state delegates to seek a State of Maryland enterprise zone designation for a wider zone/area of Burtonsville, including the BCC. This designation would complement the area with more incentives that would create a stronger revitalization focus and bring additional investment resources in infrastructure, skills, regeneration, business relocation and retention – with long term benefits and viability (such as enterprise zone tax credits and focus area tax credits). Other state and local resources and options should be pursued and made available for Burtonsville in East County as well.

At the East County Leadership Summit held this past October at the Marilyn Praisner Center in Burtonsville which was attended by members of the Council, county department leadership and citizens of East County, the two economic development priorities identified were the White Oak Science Gateway Master Plan and the revitalization of the Burtonsville business zone as a

destination node for not only the citizens of East County but also the rest of Montgomery County and to some extent Prince Georges and Howard counties. Just like Long Branch in Takoma Park, Wheaton, Olde-Town Gaithersburg and Glenmont, Burtonsville is well deserving of an enterprise zone designation by the State of Maryland for all the right reasons and long term benefits for the county.

We all know the impact of the realignment of Route 29 past Burtonsville which has stunted the area's commercial growth, the Giant grocery store refusal to negotiate on their prior store location and departure of business at the Burtonsville Crossing Center. Businesses have been decimated and this downwards spiral potentially will continue to exist without some injection of incentives and assistance to businesses to stay or relocate to Burtonsville.

Not only the Burtonsville community, but also all of East County have been awaiting redevelopment and community-focused infrastructure improvements for some time, and we are very encouraged by the current work done by the Council to develop this Bill as a good step in the right direction for Burtonsville and the county, and also the work done by our county state delegation to Annapolis to be able to make this Bill possible. We encourage you to begin working collaboratively to create a Burtonsville Enterprise Zone, inclusive of the benefits of Bill 30-13.

Signed:

A handwritten signature in black ink, appearing to read "P. Myo Khin", followed by a stylized flourish or second signature.

Peter Myo Khin
Chair, ECCAB

Cc: Isiah Leggett, County Executive
Jewru Bandeh, ECRSC Director



OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

Isiah Leggett
County Executive


MEMORANDUM

November 26, 2013

RECEIVED
MONTGOMERY COUNTY

2013 NOV 27 AM 11:51

TO: Nancy Navarro, President
Montgomery County Council

FROM: Isiah Leggett, Montgomery County Executive 

SUBJECT: Bill 30-13; Taxation – Property Tax Credit – Burtonsville Enterprise Zone Property

I appreciate the Council's commitment to revitalize the Burtonsville Crossroads area, and to utilize tools to stimulate development activity in this area of the County. I strongly support these efforts.

To this goal, the Department of Economic Development is currently attempting to secure a Maryland Enterprise Zone designation for an area in Burtonsville that goes beyond the borders of the Burtonsville Crossroads Master Plan. Such a designation would provide more tax incentives than are available through Bill 30-13, including State property tax credits, income tax credits for new job creation, and exemption from the local development impact tax.

Montgomery County currently has four Enterprise Zones: Wheaton, Long Branch/Takoma Park, Old Town Gaithersburg and Glenmont. As highlighted in the attached chart, there are differences between the State-designated Enterprise Zone's eligibility requirements and available tax credits and what is being provided for through Bill 30-13.

In order to achieve more uniformity between State-designated Enterprise Zones and the requirements and tax incentives in Bill 30-13, I recommend several amendments to Bill 30-13.

My amendments, which are outlined in column four of the attached chart, include:

- Making commercial, not residential, properties eligible for tax credits;
- Increasing the length of the tax credits to ten years;
- Deleting the reference to personal property tax credits; and
- Deleting the reference to special area tax credits.

Having more uniform eligibility requirements and available tax credits will aid in the County's efforts to successfully market and administer our enterprise zone program.

I want to thank the County Council for considering these amendments.

IL/tb

Attachments

Comparison of State Designated Enterprise Zones and Bill 30-13

Program Elements	State Designated Enterprise Zones	Bill 30-13	Suggested Amendments to Bill 30-13 to Provide for Uniformity
Property Eligibility	Based on Use - Commercial only; no residential	Based on Zoning - Commercial & Mixed-Use Residential	Add additional criteria that will lead to only commercial building eligibility.
Duration of Tax Credits	10 years	5 years	Increase duration to 10 years with same sliding scale as Enterprise Zones
Real Property Tax Credits	State and County	County only	County can't grant State tax credits
Personal Property Tax Credits	Only in exceptionally distressed "Focus Areas." No focus areas currently in the County.	Granted	Delete personal property tax credits
Special Area Tax Credits	N/A	Granted	Delete Special Area Tax credits

Bill No. 30-13
Concerning: Taxation – Property Tax
Credit – Burtonsville Enterprise Zone
Property
Revised: 7/15/2013 Draft No. 2
Introduced: November 5, 2013
Expires: May 5, 2015
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: _____
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmember Ervin, Council Vice-President Rice, Councilmembers Berliner, Elrich,
and Floreen, Council President Navarro, and Councilmembers Leventhal, Riemer, and Andrews

AN ACT to:

- (1) create a property tax credit for certain property located in the Burtonsville Crossroads Neighborhood Plan; and
- (2) generally amend the law relating to property tax credits.

By adding

Montgomery County Code
Chapter 52, Taxation
Section 52-18T

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

1 **Sec. 1. Section 52-18T is added as follows:**

2 **[[52-18T]] 52-18U. Burtonsville Enterprise Zone Property.**

3 (a) Definitions. In this Section, the following words have the meanings
4 indicated:

5 Base year means the taxable year immediately before the taxable year in
6 which a credit under this Section is to be granted.

7 Base year value means the value of the property used to determine the
8 assessment on which the property tax on real property was imposed for
9 the base year. Base year value does not include any new real property
10 that was first assessed in the base year.

11 Eligible assessment means the difference between the base year value
12 and the actual value as determined by the Department for the applicable
13 taxable year in which the tax credit under this Section is to be granted.

14 Eligible business entity means a person who operates or conducts a
15 trade or business on qualified enterprise zone property but does not own
16 the qualified enterprise zone property.

17 Qualified property means real property that:

18 (1) is located within the area encompassed by the Burtonsville
19 Crossroads neighborhood Plan developed by the Montgomery
20 County Planning Department;

21 (2) is zoned for commercial or commercial/residential mixed use
22 development[[;]] and is used for commercial purposes; and

23 (3) is improved after the effective date of this Bill and before January
24 1, 2020.

25 Tax-Property Article means the Tax-Property Article of the Maryland
26 Code.

27 (b) Credit.

28 (1) Credit authorized. The Director of Finance must allow a credit,
29 as a uthorized b y State l aw, to a taxpayer against all County
30 property tax [[and special area tax]] imposed on:

31 (a) improvements made by an eligible business entity to
32 qualified property; and

33 [[(b) personal property owned by an eligible business entity
34 located on qualified property.]]

35 (2) Duration of credit. A credit under this Section is available to a
36 qualified property for no more than [[5]] 10 consecutive years
37 beginning with the taxable year following the calendar year in
38 which the real property initially becomes a qualified property.

39 (3) Amount of credit. The amount of the credit is equal to 80% of the
40 amount of property tax imposed on the eligible assessment of the
41 qualified property in each of the first 5 taxable years following
42 the calendar year in which the property initially becomes a
43 qualified property, 70% in the sixth taxable year, 60% in the
44 seventh taxable year, 50% in the eighth taxable year, 40% in the
45 ninth taxable year and 30% in the tenth taxable year after the
46 property initially becomes qualified property.

47 (4) Nonresidential portions of qualified property. The Department
48 must allocate the eligible assessment to the nonresidential part of
49 the qualified property at the same percentage as the square
50 footages of the nonresidential part is to the total square footage of
51 the building.

52 (5) For purposes of calculating the amount of the credit allowed
53 under this Section, the amount of property tax imposed on the

54 eligible assessment must be calculated without reduction for any
55 credits allowed under the Tax-Property Article.

56 (c) Regulations. The County Executive may adopt regulations under
57 Method (2) to administer this Section.

58 (d) False or fraudulent applications.

59 (1) A person must not knowingly file a false or fraudulent
60 application to obtain a tax credit under this Section. A violation
61 of this subsection is a Class A violation.

62 (2) In addition to the penalties provided under paragraph (1), a
63 person who violates this subsection must pay the County any
64 taxes, together with interest and penalties, offset by the credit,
65 any other penalty due, and the County's fees and costs in any
66 action to enforce this subsection.

67 *Approved:*

68 _____
Nancy Navarro, President, County Council

Date

69 *Approved:*

70 _____
Isiah Leggett, County Executive

Date

71 *This is a correct copy of Council action.*

72 _____
Linda M. Lauer, Clerk of the Council

Date